

REMARKS

By this amendment, Applicants have made minor amendments to Claim 25 in order to overcome any prior objection to this claim. In addition, as set forth below, Applicants provide herewith a Certified Translation of the priority document which will remove the reference cited by the Examiner as prior art. For the reasons set forth below, Applicants submit that the present amendments and arguments place this application in condition for immediate allowance.

As an initial matter, Applicants wish to thank the Examiner and his Supervisor for the recent interview granted in this case. Applicants believe that this Interview was helpful in expediting an allowance in this case, and Applicants appreciate that the Examiner has now withdrawn the prior rejections in light of Applicants' prior response.

In the most recent Official Action, the Examiner had a minor objection to Claim 25 in that the phrase "treated in this way" was not consistent with the prior language of the claim. Applicants have overcome this rejection by virtue of the present amendments which removes this language from the claim.

In addition, the Examiner also objected to the use of the claim language "method of using quantum dots" on the grounds that use claims are not permitted under US practice. While the Examiner is correct that "Use" claims are not permitted, it is in fact the case that "method of using" claims are indeed permitted, particularly when the claim includes active positive steps. See MPEP Section 2173.05 (q) and *Ex parte Porter*, 25 USPQ2d 1144 (Bd. Pat. App. & Int. 1992) (method claim which

clearly recited a utilization step was not indefinite under Section 112). In the present set of claims, independent Claim 25 does contain positive active steps and thus is a proper method claim under Section 112. Accordingly, the claims in their present form are proper under Section 112, and the Examiner's rejection under this provisions is respectfully traversed.

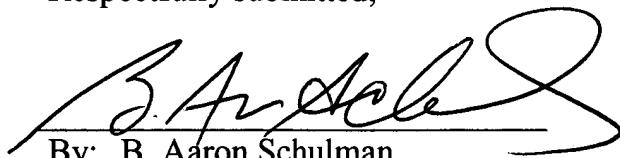
Finally, in the Official Action, the Examiner made a series of prior art rejections to the claims on the basis of Anselmann U.S. Pat. No. 7,241,502. For reasons as stated below, without even addressing the merits of the Examiner's rejections, the Anselmann patent is **not** properly citable as prior art against the present claims, and thus these rejections should be withdrawn.

In particular, U.S. Pat. No. 7,241,502 was issued based on the National Stage filing of PCT application PCT/EP02/09324. This application was first published on March 27, 2003 as WO 03/025035, but was not in the English language. Accordingly, pursuant to 35 USC 102(e), the Anselmann patent is not entitled to its application date, and thus has an effective prior art date of March 27, 2003 when the application was first published. The present application bases its priority on French application FR 2,847,812 filed November 28, 2002, and thus Anselmann is not prior art to the present claims. A Certified Translation of Applicants' priority document is submitted herewith to perfect the claim for priority and to remove the Anselmann reference as prior art. Since the Anselmann reference is not prior art to the present claims, the Examiner's prior art rejections have become moot and should be withdrawn.

In light of the fact that the minor amendment discussed above overcome the rejection under Section 112, and that the prior art rejections are not proper because the cited Anselmann reference has been removed as a reference, Applicants submit that the present application overcomes all prior rejections and objections, and has been placed in condition for immediate allowance. Applicants thus request a withdrawal of the rejections and an allowance of this application at the earliest possible time.

Respectfully submitted,

Date: August 19, 2009



By: B. Aaron Schulman
Registration No.: 31,877

STITES & HARBISON PLLC♦1199 North Fairfax St♦Suite 900♦Alexandria, VA 22314
TEL: 703-739-4900 ♦ FAX: 703-739-9577 ♦ CUSTOMER No. 000881